

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

ARCH INSURANCE COMPANY,

Plaintiff,

v.

Civil No. 2:23-CV-02689-JTF-atc

Varsity Brands Holding Co., Inc.; and
U.S. All Star Federation, Inc.,

Defendants.

**JOINT MOTION TO SET BRIEFING SCHEDULE TO RESPOND TO PLAINTIFF'S
COMPLAINT, SUPPORTING MEMORANDUM
AND CERTIFICATE OF CONSULTATION**

Pursuant to Fed. R. Civ. P. 6(b)(1)(A) and L.R. 7.2(a), Plaintiff Arch Insurance Company (“Plaintiff” or “Arch”) and Defendants Varsity Brands Holding Co., Inc. (“Varsity Holding”) and U.S. All Star Federation, Inc. (“USASF”) (collectively, the “Parties”; each is a “Party”) make this motion to set a briefing schedule to respond to Plaintiff’s Complaint, ECF No. 1, as follows:

MOTION

For the reasons stated below, the Parties jointly request that the Court set the following deadlines:

February 20, 2024	Deadline for Varsity Holding and USASF to answer or otherwise respond to the Complaint
April 22, 2024	Deadline for Arch to respond any motions filed by Varsity Holding and USASF in response to the Complaint
May 22, 2024	Deadline for Varsity Holding and USASF to file replies to Arch’s responses to any motions filed by Varsity Holding and USASF in response to the Complaint

MEMORANDUM

In support of their Motion, the Parties respectfully state as follows:

This is an insurance coverage action. Arch filed its Complaint on October 30, 2023, asserting a claim for a declaratory judgment against Varsity Holding and USASF and a claim for breach of contract against Varsity Holding. USASF's deadline to answer or otherwise respond to Arch's Complaint is February 20, 2024, and Varsity Holding's deadline to answer or otherwise respond to Arch's Complaint is January 20, 2024.

Varsity Holding and certain of its affiliates filed a separate insurance coverage action against Arch and fourteen of its other insurers concerning substantially the same underlying claims at issue here, in addition to other claims, in Delaware Superior Court on October 31, 2023, in a case captioned *Varsity Brands Holding Co., Inc., et al. v. Arch Insurance Co., et al.*, Del Super. Ct., New Castle Cnty., Case No. N23C-10-283 MAA CCLD (the "Delaware Action"). Varsity Holding intends to file a motion to dismiss this action in favor of the Delaware Action.

In the Delaware Action Varsity Holding reached agreement with Arch and the other insurers as to a briefing schedule for any motions. Varsity Holding agreed to the schedule in the Delaware Action on the condition that Arch agreed to the same briefing schedule here. Arch has so agreed.

Varsity Holding, Arch, and USASF propose the following schedule:

1. Varsity Holding and USASF shall answer or otherwise move in response to the Complaint on or before February 20, 2024. (USASF already has been granted until this date to respond to Arch's Complaint by Arch's agreement and Order of this Court.)
2. Arch shall oppose any motions filed by Varsity Holding and USASF in response to the Complaint on or before April 22, 2024.

3. Varsity Holding and USASF shall reply in support of any motion in response to the Complaint on or before May 22, 2024.

The briefing schedule in the Delaware Action, in which the insurer defendants would be the parties filing motions to dismiss, is materially identical to this schedule.

The Parties submit that good cause exists for this Court to approve the Parties' requested briefing schedule. Having the anticipated motion practice in the two forums proceed on a parallel schedule will ensure orderly resolution of the dispute and help with coordination of counsel's schedules. Nor is there any urgency that requires adjudication of any such motion practice on an expediated basis.

Accordingly, the Parties respectfully request that the Court grant this Joint Motion and approve their proposed schedule.

CERTIFICATE OF CONSULTATION

Pursuant to Local Rule 7.2(a)(1)(B), Varsity Holding's counsel certifies that on January 12, 2024, the undersigned was provided with an email from Plaintiff's counsel, Sharon McKee, and an email from USASF's counsel, Melissa Maravich, indicating that their respective clients desired to jointly request the relief sought by this motion.

Respectfully submitted,

/s/ Shea Sisk Wellford

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